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No. 75-122

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 1975

LAWRENCE CANTOR d/b/a SELDEN DRUGS COMPANY, individually and on behalf of all other retail sellers of light bulbs similarly situated,

Petitioner,

vs.

THE DETROIT EDISON COMPANY,

Respondent.

RESPONSE OF PETITIONER TO THE MOTIONS OF THE NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS ("NARUC") AND THE MOTION OF "MICHIGAN UTILITIES GROUP" FOR LEAVE TO FILE AMICUS CURIAE BRIEFS AND IN THE ALTERNATIVE FOR LEAVE TO THE PETITIONER TO FILE RESPONSES THERETO FOLLOWING ORAL ARGUMENT

Now comes the Petitioner, Lawrence Cantor, d/b/a Selden Drugs Company, by his attorneys and for his statement in opposition to the motions of NARUC and the "Michigan Utilities Group" for leave to file amicus briefs states as follows:

1. This response is typed in accordance with Rule 4 in that time did not allow preparation of a printed response.

2. The Rules of the Supreme Court of the United States, specifically Rule 42, requires amicus briefs be filed within the time provided for the filing of the brief of the party supported. The date upon which Defendant, the Detroit Edison Company ("Edison") was required to file its brief in this proceeding was December 22, 1975. Edison filed a motion requesting an extension of time for the filing of its brief, but this motion was not granted. Accordingly, the motions seeking leave to file amicus curiae briefs and the briefs

themselves were required by the Rules of this Court to be filed on or before December 2?, 1975. These motions and briefs are therefore untimely in that they were not filed until sometime after January 1, 1976.

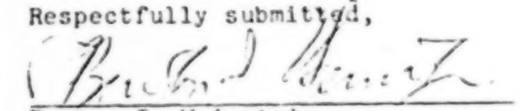
3. Edison, despite the fact that its motion for an extension of time was not granted, did not provide its brief to the Petitioner until January 5, 1976. As a result, Petitioner in addition to being burdened with the necessity of filing its response to Edison's brief on or before January 10, 1976 in conformity with the Rules of the Supreme Court of the United States must now deal with two additional briefs which, it is alleged by the moving parties, raise issues to which Edison has not or may not have addressed itself. Accordingly, Petitioner will be severely prejudiced by granting leave at this late date to the movants.

4. The fears of the movants that points raised in their briefs have been or may be inadequately covered by the brief of Edison are groundless. NARUC claims that the position of the Petitioner is an attack upon rates and rate schedules and upon state regulatory jurisdiction (see page 3 of the motion and brief of NARUC). The Michigan Utility Group argues that Edison's brief "may not adequately deal with the... question of the applicability of the federal antitrust laws to the activities of public utilities resulting from and subject to regulation by a state public utility commission". Edison's brief deals at length with each of the issues with which the movants are concerned. See pages 36 through 40 and pages 47 through 59 of Edison's brief.

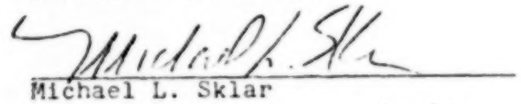
5. Petitioner does not object specifically to the filing of the amicus briefs, but certainly, due to lateness and subject matter question their rights to do so and therefore cannot consent to said filings.

WHEREFORE, the motions of NARUC and the Michigan Utilities Group for leave to file amicus curiae briefs should be denied. In the alternative, should this Court grant the motions of either or both of the movants, Petitioner respectfully requests that it be given a reasonable length of time following oral argument in which to file its response to such amicus curiae briefs as the Court permits to be filed.

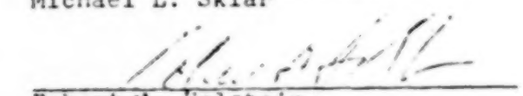
Respectfully submitted,



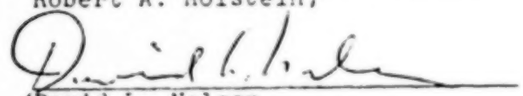
Burton I. Weinstein



Michael L. Sklar



Robert A. Holstein,



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PROOF OF SERVICE BY MAIL

I, Harriett R. Wessling, a non-attorney, on oath state: I served a copy of the attached Response of Petitioner to the Motions of the National Association of Regulatory Utility Commissioners ("NARUC") and the Motion of "Michigan Utilities Group" for Leave to File Amicus Curiae Briefs and in the Alternative for Leave to the Petitioner to File Responses Thereto Following Oral Argument by mailing a copy of said Response to each person required to receive copies of all filings* and depositing same in the United States mail at 6 North Michigan Avenue, Chicago, Illinois at 5:00 p.m. on January 6, 1976, with proper postage prepaid.

Harriett R. Wessling

Signed and sworn to before me
this 6th day of January, 1976.

Notary Public

*See attached list

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